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BEH Investments LLC 1652 48th Street Brooklyn, NY 11204		EXAMINER HUYNH, THU V		
		ART UNIT PAPER NUMBER		
		2178		

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/372,416

Applicant(s)

DORFMAN, JONATHAN

Examiner

Thu V Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: amendment and affidavit filed on 12/21/2004 to application filed on 08/11/1999.
2. Claims 3, 16-17 are amended.
3. Claims 1-17 are pending in the case. Claims 1, 4-6, 10 and 16-17 are independent claims.
4. The objection of claim 3 under having typographical error has been withdrawn in view of the amendment.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. **Claims 1, 3-13 and 15-17 remain rejected under 35 U.S.C. 102(e) as being anticipated by Landsman et al., US 6,516,338 B1 priority filed 01/26/1999.**

Regarding independent claim 1, Landsman teaches the steps of:

- a web browser which can retrieve files, interpret JavaScript, and display web pages (Landsman, abstract; and col.11, lines 38-58; a web browser which can retrieve

advertisement, JavaScript files; executing the JavaScript file; and displaying web page through the web browser);

- a first internet server which includes a web page that includes an advertising macro tag (Landsman, col.11, lines 38-41; and fig.1B, box 13; web site (contents) server 13 which includes a web page that includes an advertising tag);
- a second internet server which includes a JavaScript file (Landsman, col.11, lines 38-41; col.16, lines 53-57; and fig. 1B, box 15; JavaScript file is stored on agent server (distribution server));
- an advertisement server which provides advertisements in response to links from said browser (Landsman, abstract; and fig.1B, box 20 and communication 18)
- said macro tag including a link to said second internet server (Landsman, col.11, lines 38-41; and fig.1B, box 45; advertising tag references to the JavaScript file "loaded.js" which is stored on the distribute server "http://unicast_ad_server.com");
- said JavaScript file including a link to said advertisement server, whereby said JavaScript file is executed and an advertisement is displayed each time said browser accesses said web page (Landsman, col.9, line 62 – col.10, line 9; col.11, line 32 – col.12, line 31; col.17, line 50 – col.18, line 47; col.19, line 61 – col.20, line 14; and correspond figures; Landsman teaches executing the JavaScript file to instantiate an agent implement Java applet at client browser to download advertising files from a third-party advertising server; and subsequently displaying and playing advertising files through the browser in response to a user click-stream. Landsman teaches advertisement tag 40 has two components. First component 42 is a reference to a

JavaScript file “loadad.js” located at server “http://unicast.com”. Second component is a URL reference to an advertisement server “http://Ad Management_system”.

When a user requests a web page that includes advertisement tag 40, the browser executes the JavaScript file to dynamically write applet tags to form “transition sensor applet” 210. Landsman specifies that “These tags, which collectively form Transition Sensor applet 210, include a reference to a specific ad manager system as specified in the second portion of advertisement tag 40” (Landsman, col.19, line 61 – col.20, line 14). These inherently teach that the second component 44 of advertisement tag 40 is a parameter, which must be passed to the JavaScript file in order to instruct the dynamically writing of the “transition sensor applet” 210 that includes the second component 44 of advertisement tag 40 in the transition sensor applet).

Regarding dependent claim 3, which is dependent on claim 1, Landsman and HotScripts teach the limitations of claim 1 as explained above. Landsman teaches wherein said web page contains HTML code (Landsman, abstract; col.11, lines 38-58; and fig.2A).

Regarding independent claim 4, Landsman teaches a method linking to an advertisement server from a web page, including on a web page a macro tag with a link to a file on a command server, said file including JavaScript commands which include a link to said advertisement server, whereby advertisements called for by said macro tag are displayed (Landsman, col.9, line 62 – col.10, line 9; col.11, line 32 – col.12, line 31; col.16, lines 53-57; col.17, line 50 – col.18, line 47; col.19, line 61 – col.20, line 14; fig.1B, boxes 13 and 15 and

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other correspond figures; Landsman teaches including on web page 35 an advertising tag (macro tag) 40 with a link to a JavaScript file which is stored on agent/distribution server. Landsman teaches advertisement tag 40 has two components. First component 42 is a reference to a JavaScript file "loadad.js" located at server "<http://unicast.com>". Second component is a URL reference to an advertisement server http://Ad Management_system. When a user requests the web page that includes advertisement tag 40, the browser executes the JavaScript file to dynamically write applet tags to form "transition sensor applet" 210. Landsman specifies that "These tags, which collectively form Transition Sensor applet 210, include a reference to a specific ad manager system as specified in the second portion of advertisement tag 40" (Landsman, col.19, line 61 – col.20, line 14). These inherently teach that the second component 44 of advertisement tag 40 is a parameter, which must be passed to the JavaScript file in order to instruct the dynamically writing of the "transition sensor applet" 210 that includes the second component 44 of advertisement tag 40 in the transition sensor applet. Landsman teaches executing the JavaScript file to instantiate an agent implement Java applet at client browser to download advertising files from a third-party advertising server; and subsequently displaying and playing advertising files through the browser in response to a user click-stream).

Regarding independent claim 5, Landsman teaches a system includes browsers which link to web pages, comprising a command server which includes a command file with links to advertisement server, said web pages including macro tags which direct browsers to retrieve said command file on said command server, whereby said browsers are directed to retrieve advertisements from said advertisement server when they access a web page (Landsman, col.9,

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line 62 – col.10, line 9; col.11, line 32 – col.12, line 31; col.16, lines 53-57; col.17, line 50 – col.18, line 47; col.19, line 61 – col.20, line 14; fig.1B, boxes 13 and 15 and other correspond figures; Landsman teaches including on web page 35 an advertising tag (macro tag) 40 with a link to a JavaScript file (command file) which is stored on agent/distribution server (command server). Landsman teaches advertisement tag 40 has two components. First component 42 is a reference to a JavaScript file “loadad.js” located at server “<http://unicast.com>”. Second component is a URL reference to an advertisement server <http://Ad Management system>. When a user requests the web page that includes advertisement tag 40, the browser executes the JavaScript file to dynamically write applet tags to form “transition sensor applet” 210. Landsman specifies that “These tags, which collectively form Transition Sensor applet 210, include a reference to a specific ad manager system as specified in the second portion of advertisement tag 40” (Landsman, col.19, line 61 – col.20, line 14). These inherently teach that the second component 44 of advertisement tag 40 is a parameter, which must be passed to the JavaScript file in order to instruct the dynamically writing of the “transition sensor applet” 210 that includes the second component 44 of advertisement tag 40 in the transition sensor applet. Landsman teaches browser executes the JavaScript file to instantiate an agent implement Java applet at client browser to download advertising files from a third-party advertising server; and subsequently displaying and playing advertising files through the browser in response to a user click-stream).

Regarding independent claim 6, Landsman teaches a method for displaying an advertisements on a user’s computer in response to commands in a macro tag on a web page

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which is accessed by an internet browser on said user's computer (Landsman, abstract, col.11, lines 38-58; and fig.1B, box 13), said system comprising:

- a first server with a file that contains a series of commands that can be executed by said browser (Landsman, col.11, lines 38-41; col.16, lines 53-57; and fig. 1B, box 15; JavaScript file that contains command is stored on agent/distribution server that can be executed by the browser); and
- a second server that contains said advertisement (Landsman, abstract; and fig.1B, box 20, advertisement server contains the advertisements);
- a link to said file in said macro tag (Landsman, col.11, lines 38-41; and fig.1B, box 45; advertising tag references to the JavaScript file "loaded.js" which is stored on the distribute server "http://unicast_ad_server.com"),

whereby when said macro tag is executed by said browser, said file is retrieved and said link in said file is executed to retrieve said advertisement and to display said advertisement on said user's computer (Landsman, col.9, line 62 – col.10, line 9; col.11, line 32 – col.12, line 31; col.16, lines 53-57; col.17, line 50 – col.18, line 47; col.19, line 61 – col.20, line 14; fig.1B, boxes 13 and 15 and other correspond figures; Landsman teaches including on web page 35 an advertising tag (macro tag) 40 with a link to a JavaScript file (command file) which is stored on agent/distribution server (command server). Landsman teaches advertisement tag 40 has two components. First component 42 is a reference to a JavaScript file "loadad.js" located at server "http://unicast.com". Second component is a URL reference to an advertisement server http://Ad Management_system. When a user requests the web page that includes advertisement tag 40, the browser executes the JavaScript file to dynamically write applet tags to form "transition sensor

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applet” 210. Landsman specifies that “These tags, which collectively form Transition Sensor applet 210, include a reference to a specific ad manager system as specified in the second portion of advertisement tag 40” (Landsman, col.19, line 61 – col.20, line 14). These inherently teach that the second component 44 of advertisement tag 40 is a parameter, which must be passed to the JavaScript file in order to instruct the dynamically writing of the “transition sensor applet” 210 that includes the second component 44 of advertisement tag 40 in the transition sensor applet. Landsman teaches browser executes the JavaScript file to instantiate an agent implement Java applet at client browser to download advertising files from a third-party advertising server; and subsequently displaying and playing advertising files through the browser in response to a user click-stream).

Regarding dependent claim 7, which is dependent on claim 6, Landsman and HotScripts teach the limitations of claim 6 as explained above. Landsman teaches wherein said file contains JavaScript commands (Landsman, col.11, lines 38-41; col.16, lines 53-57; and fig. 1B, box 15; JavaScript file that contains command is stored on agent/distribution server that can be executed by the browser).

Regarding dependent claim 8, which is dependent on claim 6, Landsman and HotScripts teach the limitations of claim 6 as explained above. Landsman teaches wherein said advertisement is a gif-image or Java applet (Landsman, col.3, lines 52-60 and col.10, lines 1-10).

Regarding dependent claim 9, which is dependent on claim 6, Landsman and HotScripts teach the limitations of claim 6 as explained above. Landsman teaches wherein said file contains JavaScript (Landsman, col.11, lines 38-41; col.16, lines 53-57; and fig. 1B, box 15; JavaScript file that contains command is stored on agent/distribution server that can be executed by the browser).

Regarding independent claim 10, Landsman teaches a system where users access web page using a browser, a web page that includes a macro tag with a reference to a file on a first server, whereby said browser links to said file when said web page is processed by said browser, said file including a link to an advertisement server having an advertisement in a file, whereby said advertisement is displayed by said browser when said file is processed by said browser (Landsman, col.9, line 62 – col.10, line 9; col.11, line 32 – col.12, line 31; col.16, lines 53-57; col.17, line 50 – col.18, line 47; col.19, line 61 – col.20, line 14; fig.1B, boxes 13 and 15 and other correspond figures; Landsman teaches including on web page 35 an advertising tag (macro tag) 40 with a link to a JavaScript file (command file) which is stored on agent/distribution server (command server). Landsman teaches advertisement tag 40 has two components. First component 42 is a reference to a JavaScript file “loadad.js” located at server “http://unicast.com”. Second component is a URL reference to an advertisement server http://Ad Management_system. When a user requests the web page that includes advertisement tag 40, the browser executes the JavaScript file to dynamically write applet tags to form “transition sensor applet” 210. Landsman specifies that “These tags, which collectively form Transition Sensor applet 210, include a reference to a specific ad manager system as specified in the second portion

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of advertisement tag 40” (Landsman, col.19, line 61 – col.20, line 14). These inherently teach that the second component 44 of advertisement tag 40 is a parameter, which must be passed to the JavaScript file in order to instruct the dynamically writing of the “transition sensor applet” 210 that includes the second component 44 of advertisement tag 40 in the transition sensor applet. Landsman teaches browser executes the JavaScript file to instantiate an agent implement Java applet at client browser to download advertising files from a third-party advertising server; and subsequently displaying and playing advertising files through the browser in response to a user click-stream).

Regarding dependent claim 11, which is dependent on claim 10, Landsman and HotScripts teach the limitations of claim 10 as explained above. Landsman teaches wherein said file contains Javascript (Landsman, col.11, lines 38-41; col.16, lines 53-57; and fig. 1B, box 15; JavaScript file that contains command is stored on agent/distribution server that can be executed by the browser).

Regarding dependent claim 12, which is dependent on claim 10, Landsman and HotScripts teach the limitations of claim 10 as explained above. Landsman teaches wherein said macro tag contains a series of HTML statements (Landsman, fig.2A, box 40).

Regarding dependent claim 13, which is dependent on claim 11, Landsman and HotScripts teach the limitations of claim 11 as explained above. Landsman teaches wherein said macro tag contains a series of HTML statements (Landsman, fig.2A, box 40).

Regarding dependent claim 15, which is dependent on claim 11, Landsman and HotScripts teach the limitations of claim 11 as explained above. Landsman teaches wherein said system determines the characteristics of said browser and executes instruction compatible with said browser's characteristics to display said advertisement (Landsman, col.12, lines 45-49; and col.21, lines 58-65; displaying advertisements depend on different user computer browsing platforms).

Regarding independent claim 16, Landsman teaches a system for displaying advertisements comprising the steps of:

- a web browser which can retrieve files, parse HTML code and display web pages (Landsman, abstract; and col.11, lines 38-58; a web browser which can parses the HTML code to retrieve advertisement, JavaScript files by executing the JavaScript file in a web page and displaying the web page through the web browser);
- an advertisement server which provides advertising content (Landsman, abstract; and fig.1B, box 20);
- a JavaScript file which includes a reference to said advertisement server and commands for requesting the advertisement content from the advertisement (Landsman, col.9, line 62 – col.10, line 9; col.11, line 32 – col.12, line 31; col.17, line 50 – col.18, line 47; col.19, line 61 – col.20, line 14; and correspond figures; Landsman teaches executing the JavaScript file to instantiate an agent implement Java applet at client browser to download advertising files from a third-party advertising server; and subsequently displaying and playing advertising files through

the browser in response to a user click-stream. Landsman teaches advertisement tag 40 has two components. First component 42 is a reference to a JavaScript file "loadad.js" located at server "http://unicast.com". Second component is a URL reference to an advertisement server http://Ad Management_system. When a user requests a web page that includes advertisement tag 40, the browser executes the JavaScript file to dynamically write applet tags to form "transition sensor applet" 210. Landsman specifies that "These tags, which collectively form Transition Sensor applet 210, include a reference to a specific ad manager system as specified in the second portion of advertisement tag 40" (Landsman, col.19, line 61 – col.20, line 14). These inherently teach that the second component 44 of advertisement tag 40 is a parameter, which must be passed to the JavaScript file in order to instruct the dynamically writing of the "transition sensor applet" 210 that includes the second component 44 of advertisement tag 40 in the transition sensor applet);

- a web page server which includes a web page that includes a tag, the tag including a reference to the JavaScript file (Landsman, col.11, lines 38-41; and fig.1B, box 13; web site (contents) server 13 which includes a web page that includes an advertising tag);
- whereby, the advertising content is displayed when the browser access the web page (Landsman, col.9, line 62 – col.10, line 9; col.11, line 32 – col.12, line 31; col.17, line 50 – col.18, line 47; col.19, line 61 – col.20, line 14).

Regarding independent claim 17, Landsman teaches a method for referencing to an advertisement server from a web page, the method comprising the steps of:

- including in the web page a reference to a file (Landsman, col.11, lines 38-41; and fig.1B, box 13; web site (contents) server 13 which includes a web page that includes an advertising tag);
- including in the file a reference to said advertisement server and JavaScript commands for requesting an advertisement from the advertisement server (Landsman, col.9, line 62 – col.10, line 9; col.11, line 32 – col.12, line 31; col.17, line 50 – col.18, line 47; col.19, line 61 – col.20, line 14; and correspond figures; Landsman teaches executing the JavaScript file to instantiate an agent implement Java applet at client browser to download advertising files from a third-party advertising server; and subsequently displaying and playing advertising files through the browser in response to a user click-stream. Landsman teaches advertisement tag 40 has two components. First component 42 is a reference to a JavaScript file “loadad.js” located at server “http://unicast.com”. Second component is a URL reference to an advertisement server http://Ad Management_system. When a user requests a web page that includes advertisement tag 40, the browser executes the JavaScript file to dynamically write applet tags to form “transition sensor applet” 210. Landsman specifies that “These tags, which collectively form Transition Sensor applet 210, include a reference to a specific ad manager system as specified in the second portion of advertisement tag 40” (Landsman, col.19, line 61 – col.20, line 14). These inherently teach that the second component 44 of advertisement tag 40 is a parameter, which must be passed

to the JavaScript file in order to instruct the dynamically writing of the “transition sensor applet” 210 that includes the second component 44 of advertisement tag 40 in the transition sensor applet).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. **Claims 2 and 14 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Landsman as applied to claims 1 and 11 above, and further in view of “HTML 4.0”, XP-002191626, revised on 04/24/1998, as supplied by Applicant in IDS filed on 05/29/2002.**

Regarding dependent claim 2, which is dependent on claim 1, Landsman and HotScripts teach the limitations of claim 1 as explained above. Landsman teaches wherein said

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macro tag has commands to access said advertisement (Landsman, col.18, lines 36-41).

However, Landsman does not explicitly teach wherein said macro tag has commands to access said advertisement server *if said web browser does not have the capability of executing JavaScript.*

HTML 4.0 teaches using noscript element to provide alternate content when a user browser does not support script, the user still retrieve data through a link (HTML 4.0, page 244, section 18.3).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined HTML 4.0 into Landsman and HotScripts to provide advertisements to the user browser even the user browser does not have the capability of executing JavaScript, since noscript tag is used to alternate content when a script is not executed and was well known in the art to give a solution when browsers do not support script languages.

Regarding dependent claim 14, which is dependent on claim 11, Landsman and HotScripts teach the limitations of claim 11 as explained above. Landsman teaches wherein said macro tag includes a line to said advertisement server (Landsman, col.18, lines 36-41). However, Landsman does not explicitly teach wherein said macro tag includes a line to said advertisement server *which is executed if said browser can not execute Javascript.*

HTML 4.0 teaches using noscript element to provide alternate content when a user browser does not support script, the user still retrieve data through a link (HTML 4.0, page 244, section 18.3).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined HTML 4.0 into Landsman and HotScripts to provide advertisements to the user browser even the user browser does not have the capability of executing JavaScript, since noscript tag is used to alternate content when a script is not executed and was well known in the art to give a solution when browsers do not support script languages.

Response to Arguments

8. Applicant's arguments and Charles Martin's Declaration filed on 12/21/2004 have been fully considered but they are not persuasive.

Both Applicant (page 8) and Mr. Martin (paragraph 22-24) agree that the second component "AdServer" of Landsman's is a parameter containing a value that identifies an Advertisement Server (or AMS), and that the "AdServer" parameter can be used by the (JavaScript) script contained in "loadad.js" identified in the first component (Landsman, Figure 2A). However, both Applicant and Mr. Martin later refute that the script contained in "loadad.js" does not have reference to the value of AMS pointed to by AdServer. This is a contradiction. Once a software program (the script contained in "loadad.js" in this case) holds a reference to a variable ("AdServer" in this case) that holds a value (the AMS in this case), it (the script contained in "loadad.js") is said to have reference to that value (the AMS) that variable ("AdServer") points to. Let's take a simple example. Let's say a script is (1) to perform "square of x" and (2) to "print out the result" of the operation. When a user set the value of x to be 3, he got the printed result of 9. The example script can perform this operation because it has reference to the value 3 through "x". At another time, the user may set x equals to 5 and get a

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printed result of 25. Anyone would agree that the script has not been changed. The different result is due to the fact that the script has reference to a different value of 5 instead of 3.

Compared this simple example to Landsman's implementation, one can see that "x" is functionally similar to the variable "AdServer", "3" or "5" is functionally similar to the value of "http://AdManagement_system" (Landsman, Figure 2A), and the script itself is functionally similar to whatever script Landsman has in "loadad.js". Saying that our example script has a reference to x but does not have a reference to the value "3" or "5" is incorrect because if that was true, then the script would not compute and print the result as "9" or "25" but would give some other numbers or probably a same pre-determined number. Consequently, saying the script contained in Landsman's "loadad.js" has a reference to the variable "AdServer" but not the value of "http://AdManagement_system" that this variable was set to is incorrect.

It may be argued that Landsman's script does not use the value set by "AdServer" but the question then is why his implementation includes the "AdServer". To answer this, one will have to look at Landsman's box 200 in figure 2B and related discussion in col. 17 lines 56 to col. 18 line 23). This box content and the related discussion state the script in "loadad.js" is to be executed and dynamically writes out the result as of box 210. If one was to assume that the script in "loadad.js" did not use the value of "http://AdManagement_system" set in "AdServer", then the resulted content in box 210 should not be called a "dynamically written applet tags" as cited on Landsman's figure 2B since the "loadad.js" cannot do any dynamic write-out by itself. This latter argument is agreed upon by Mr. Martin and Applicant as "the JavaScript file is a static file, which may be used across many web pages and websites" (Martin, paragraph 22). If one set to argue that the script in Landsman's "loadad.js" was to write out dynamic content by itself then

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Mr. Martin's argument cannot be possibly true and the script would then just write out any uncontrollable content (refer again to the similarities in our simple example above).

Consequently, one can certainly conclude that Landsman's script in "loadad.js" does have and use the reference value (e.g. "http://AdManagement_system") pointed to by "AdServer" as discussed in the Office Action.

Mr. Martin and Applicant argue that "the applet is not the same as the applet tags" and that Landsman's disclosure of "these tags, which collectively form Transition Sensor applet 210" is misleading and erroneous (Martin, paragraph 14-15 and Applicant, page 8, last paragraph).

Examiner partially agrees with Mr. Martin and Applicant's first assertion but disagrees with them on the "misleading and erroneous" part. In contrast, their first assertion only illustrates the need for Landsman's disclosure. As Mr. Martin asserted in his paragraph 12, "an applet is a compiled executable file that may be downloaded and launched by a web browser". To be more specific though, an applet is a program to be executed by some piece of software, this software is usually a browser's java virtual machine (JVM) and ... not the browser itself (see Sun's definition at <http://java.sun.com/applets>). It is commonly known that a browser without a JVM certainly cannot execute any applet. Moreover, in order for a browser to "pull in" the applet code and the browser's JVM to execute an applet, any person of ordinary skill in the art knows the browser must be told about various things regarding where to get the executable file, what parameters to pass to the program once the JVM starts to execute it, whether/how to display anything on a user's screen, etc. Consequently, one needs to know how to tell (or configure) the browser using the applet tags. Landsman's disclosure of "these tags, which collectively form the

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Transition Sensor applet 210” is very common and non-ambiguous for any person of ordinary skill in the art since without the correctly set tags and parameters, an applet file (though executable) is still obviously useless, simply because it resides on a disk somewhere and does not run or perform any work. A browser, even if it has a built-in JVM, cannot by itself execute an applet without being told how (configured). It is with these tags and configuration parameters that one enables a browser’s JVM to really execute the applet.

Applicant and Mr. Martin, based on their incorrect assertion about the “misleading and erroneous” mentioned above, came to a very subjective conclusion that Landsman’s disclosure that “the Transition Sensor Applet includes a reference to a specific ad management system as specified in the second portion of advertising tag” is ambiguous (Martin, paragraph 17-20) and downright untrue (Martin, paragraph 25 and Applicant paragraph 1, page 9).

Examiner disagrees. As discussed above, Landsman’s disclosure about the tags and parameters needed to form an applet that is to be executed is not misleading or erroneous. Moreover, Landsman discusses at length how his Transition Sensor Applet comes to get a reference to the Advertisement Management System (or AMS) as well as how the applet uses this reference (Landsman, col. 17 line 56 to col. 18 line 47 and again in col. 19 line 61 to col. 20 line 14). Although Applicant and Mr. Martin brought up several unclear issues in Landsman’s discussion (Martin, paragraph 17-20), they did not ascertain why Landsman’s implementation does not work or how it is different than the Applicant’s claims of invention. Examiner, therefore, does not have to get into the details of these unclear issues.

In Mr. Martin’s paragraph 26, he further concludes that the reference (or URL) to the Advertisement Server (or AMS) is not included in the Transition Sensor Applet (TSA). This

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conclusion is considered very bias since Landsman's discussion and implementation clearly point out at different passages that the TSA does have a reference to some specific AMS (Landsman, col. 18 line 36-47, col. 20 lines 11-14 and figures 2A-B). This reference, however directly or indirectly obtained through the <param ...> element of the applet tags, ensures that the running TSA applet has a reference to the specific AMS as discussed in Landsman's and the Office Action.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Blumenau, US 6,418,470 priority filed 1998, teaches metering of internet context using a control.

Alberts, US 5,937,392, filed 1997, teaches banner advertising display system and method with frequency of advertisement control.

Howerton, III et al., US 2001/0049701 A1, priority filed 1999, teaches internet web page background advertising system.

Davis et al., US 2003/0065770 A1, priority filed 1997, teaches method of monitoring client interaction with a file downloaded from a server.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu V Huynh whose telephone number is (571) 272-4126. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TVH
April 4, 2005



STEPHEN HONG
SUPERVISORY PATENT EXAMINER